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SECURITIES COMMISSION

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Hon. Constantine E. Osterman, Minister
Consumer & Corporate Affairs
Room 402, Legislature Building
EDMONTON, ALBERTA
T5K 2B6

REPORT OF THE ALBERTA SECURITIES COMMISSION
RE: ABACUS CITIES LTD.
PART I

1. INTRODUCTION

The Alberta Securities Commission conducted an investigation into affairs relating to the collapse of Abacus Cities Ltd., pursuant to powers granted to the Commission in the Securities Act of Alberta. The investigation was conducted by Ron Baines, F.C.A. and his report (the "Baines Report") was delivered to the Alberta Securities Commission on July 14, 1983. It is the Commission's view that July 14, 1983 is the first day on which facts on which any proceedings could be based came to the knowledge of the Commission.

Because of the sheer volume and complexity of the results of the investigation, the Commission directed that a task force of government lawyers undertake a legal review of the Baines Report and to synthesize those portions of the Report which, in the opinion of the task force, might form a factual basis for any prosecutions pursuant to the Securities Act in the courts or for enforcement proceedings before the Commission, or which would give rise to any recommendations for legislative, regulatory or administrative action. The task force reported to the Commission on May 7, 1984.

This document constitutes the Commission's report to the Minister made pursuant to section 36(a) of the Act. The investigators report has been delivered to you, and all of the material accumulated in the course of investigation including transcripts of evidence, exhibits etc. has been made accessible to you.

In this report the Commission makes recommendations under the following headings:

1. Recommendations for legislative amendment.
2. Policy Recommendations.
3. Recommendations respecting the laying of court charges for breach of the Securities Act.
4. Recommendations respecting institution of enforcement proceedings before the Commission.

5. Miscellaneous recommendations.

The recommendations under paragraph 3 and 4 are not yet finalized and will be forwarded to you as a form of supplementary report in short order.

In presenting the Report, the Commission is cognisant of the fact that very much of the activity conducted by Abacus Cities Ltd. and related companies and companies with which it did business did not fall within the jurisdiction and regulatory ambit of the Securities Act.

At least 23 developments of Abacus Cities Ltd. in Alberta and British Columbia were exempt from the operation of the Alberta Securities Act. Only six projects were presented for sale in Alberta to public investors pursuant to prospectuses cleared by the Commission. Seven prior projects were granted exempting orders under section 20 or 59 of the old Act.

The client/developers of Abacus Cities Ltd., and the trades people who provided labour and materials to the developments were private contractors acting in the normal course of business. The rights of the respective parties were subject to such negotiation as the parties wished to enter into at the time they made their agreements and contracts. Accordingly, these parties are entitled to take proceedings in the civil courts for whatever remedies are available to them civilly. The Commission is cognisant of the fact that numerous civil law suits and actions have been undertaken by or on behalf of the client/developers and the trades people. These matters are outside of the jurisdiction of the Commission in the administration of the Alberta Securities Act.

2. BACKGROUND

2.1 Abacus Cities Ltd. was a development company that experienced rapid growth and apparent success during the early 1970's. The main control over this company and associated companies appeared to be in the hands of Mr. Ken Rogers and, to some extent, his brother, William Rogers. The main reason for the growth of this company was its ability to take advantage of the tax benefits associated with the M.U.R.B. Programs.

2.2 During the latter part of 1978 and the early part of 1979, some of the "outside Directors" of Abacus became concerned with their investment. As a result, the law firm of Ghitter and Company and the accounting firm of Touche Ross and Company were retained to conduct a review of the affairs of Abacus. This review was commenced with the consent of all of the Directors of Abacus and, the cost of this report was borne by Abacus. There was also an agreement to waive all privileges, including the solicitor/client privilege and further agreement that the Orr/Ghitter Report would be made available to the regulatory agencies including the Alberta Securities Commission, the B.C. Superintendent of Brokers

and the Ontario Securities Commission.

2.3 On May 4, 1979, the Orr/Ghitter Report was delivered to the Alberta Securities Commission. The report was critical of Abacus Cities Ltd. in a number of respects and included inferences that there might be criminal liability on the part of some or all of the Directors. The criminal liability included Criminal Code violations as well as regulatory violations.

3. THE COMMISSION INVESTIGATION

3.1 On May 28, 1979, the Alberta Securities commission ordered an investigation under section 21(2) of the old Securities Act, R.S.A. 1970 as amended. The investigation order was essentially as follows:

> "To investigate whether and to what extent each of Abacus and 43 other companies had engaged in trading in the securities of any of the other companies."

This investigation order was directed to Ronald A. Baines, a chartered accountant in Calgary with Arthur Anderson and Company, and included the appointment of Fenerty, Robertson, Fraser and Hatch to act as special counsel to assist in the conduct of the investigation.

3.2 During the first month of the Baines investigation, an additional ninety-three companies were added to the list of companies to be investigated.

3.3 Subsequent amendments to the order noted in 3.1 were made to include the following appointments:

3.3.1 a member of the R.C.M.P., as an agent in criminal law investigation;

3.3.2 an expert in securities law investigation;

3.3.3 a number of chartered accountants and other experts;

3.3.4 a number of support staff.

3.4 The investigation included:

3.4.1 a review of all documentation of Abacus transactions;

3.4.2 examination under oath of approximately 75 witnesses (e.g. the testimony of Mr. K.D. Rogers covers nearly 2,600 pages of transcript).

3.5 The Abacus investigative report (the Baines Report) was completed and delivered to the Alberta Securities Commission on July 14, 1983. Turned over to the Commission were:

3.5.1 seven volumes of actual report consisting of over 700 pages;

3.5.2 two volumes of appendices with over 70 entries;

3.5.3 nine banker's boxes of exhibits and transcripts;

3.5.4 twenty five filing cabinet drawers of other exhibits.

3.6 A Task Force was struck to analyze the Baines Report and recommendations and to make comments or further recommendations to the Alberta Securities Commission.

3.7 The Task Force consisted of a staff lawyer of the Commission and four staff lawyers of the Department of the Attorney General.

3.8 The Task Force had access to the material examined by Mr. Ronald Baines, the complete R.C.M.P. investigation report and the files of the Alberta Securities Commission.

3.9 The Task Force held meetings with Mr. Ronald Baines and the R.C.M.P. Commercial Crime Investigators.

3.10 The Task Force presented its findings to the Alberta Securities Commission, the Minister of Consumer & Corporate Affairs and the Attorney General on May 7, 1984.

4. ABACUS CITIES LTD.

4.1 Abacus sold tax shelters primarily in the form of land and building development service contracts. Abacus developed land, duplexes, town houses, condominiums and light commercial projects for clients who were called "client/developers". Abacus acquired and developed the land and supervised the construction of the building as agent for the client/developers as established under the client/developer contracts.

4.2 By May 1979, when Abacus went into receivership, it had contracts with approximately 3,300 client/developers. They had participated in 73 Abacus projects. These projects were Abacus' bread and butter operation. There were 51 incomplete client/developer projects, in Alberta, British Columbia, and the State of Washington. Twenty-two completed projects were being managed by Abacus. Abacus had pulled the construction crews off virtually all projects before the Abacus receiver was introduced by the bank.

4.3 The Abacus collapse caused the client/developers to claim losses of around $43,000,000. In addition, Abacus recognized, in its June 1979 Statement of Affairs, that $10,000,000 to $20,000,000 of recorded charges to the client/developer projects were uncollectible. For many projects in late 1978 and early 1979, tradesman accounts were not paid and trademan liens resulted. The trade creditors, suppliers and mortgage companies suffered defaults on payments and loans. Five years after the debts were incurred, the unsecured creditors may receive between 20¢ and 80¢ on the dollar, all without interest. According to the Abacus receiver, the range in the potential payment to the unsecured creditors relates to client/developer claims. The question is whether the client/developers are creditors of Abacus.

4.4 Abacus' client/developer real estate operations suffered from a major problem in 1978 and 1979: the basic real estate tax shelter product could not be fully financed. The total cost of the client/developer real estate unit included a premium for the tax shelter benefit; this was a premium over and above the underlying real estate value used by arms length lenders. The premium was only of value to the tax shelter investor or client/developer.

4.5 The ability to finance a real estate tax shelter project, as in any real estate project, depends on the relationship between price or cost and value. Value is generally accepted to be the price that an informed purchaser will pay and an informed vendor will accept in a freely bargained transaction.

4.6 In the first instance, Abacus paid the costs. These costs were rebilled to the client together with Abacus' fees. The combination of outside costs plus Abacus' charges became the cost or price to the client/developer and is subsequently referred to as the "client cost".

4.7 The resale value of the property is what an informed second purchaser would pay and an informed vendor would accept. The resale price does not include any premium because there are no extra development related tax shelter benefits available to the second purchaser. In the absence of other market forces, it follows that the second sale would command a lower value or price than the first. This resale value is hard to estimate because property values fluctuate in the market where inflation and other forces are usually at work.

4.8 A lender should not look to the original tax shelter sales price or client costs as an indicator of value because, in the event of foreclosure and resale, the lender could only expect proceeds at the level of a second sale.

4.9 In the course of its business, Abacus received monies from client/developers for the development and construction of real estate projects. Abacus, as agent for the clients, also received mortgage funds. Abacus had the contractual right and responsibility to arrange the client project mortgages to finance the development and construction of the project. The client/developer cash equity investment in the project was generally fixed at a little over 25% of the pro forma cost of the project. Abacus had an "unwritten rule" that it would not go back to the client/developer for more cash. Mortgages from regulated lenders are generally limited to 75% of their value of real estate.

4.10 The original pro forma project costs were set before the project was designed, zoned or sub-contracted and sometimes even before the land was acquired. This meant that the pro forma was a very rough estimate. By the time the projects were built, the total client costs were generally much higher than the pro forma estimate on which the clients' equity was based; so much so that the mortgage funds (at 75% of the completed security value) plus the client equity (at about 25% of the original pro forma costs) were less than 100% of the completed cost. This normally resulted in a shortfall in the financing available for arms length regulated lenders.

4.11 Abacus was forced to carry the unfinanced fees and costs until another source of financing could be arranged. There was a possibility that the mortgage value would eventually increase and support additional arms length mortgaging to pay Abacus. In the meantime, Abacus required interim mortgages not available from arms length lenders.

4.12 Abacus indirectly acquired and effectively controlled several regulated lenders. These elbow's length lenders advanced interim mortgage funds on the client/developer projects. These lenders included Fort Garry Trust Company (Fort Garry), Paramount Life Insurance Company (Paramount) and AMIC Mortgage Investment Corporation (AMIC). They were sometimes called the Fort Garry Group. These lenders advanced about $29,000,000 of mortgage funds to Abacus and its projects. At one point about $7,000,000 of these loans were beyond the needs of the individual projects.

4.13 Abacus' operations and the problems are complex. The basic Abacus sales product and the underlying security value of that product established that the security value of the client projects was less than the cost to the clients.

4.14 The inherent defect in this financing scheme caused problems that became more pronounced during the first quarter of 1979.

4.15 In early April 1979, the Abacus board retained Touche Ross & Co. and Ghitter and Company to conduct a review of the affairs of Abacus and report to the Alberta Securities Commission, the British Columbia Superintendent of Brokers, the Ontario Securities Commission and the Abacus outside directors. The report was issued May 4, 1979, and included many criticisms against Abacus, the board and management.

4.16 On May 11, 1979, one week later, Thorne Riddell Inc. was appointed Receiver of Abacus.

4.17 On April 1, 1981, Abacus Cities Ltd. was declared bankrupt, with the Trustee being Thorne Riddell Inc.

5. RECOMMENDATIONS OF THE COMMISSION

5.1 RECOMMENDATIONS FOR LEGISLATIVE AMENDMENT

5.1.1 Recommendation #1 - "de facto control" test

That there be an amendment to the Alberta Business Corporations Act and the Alberta Securities Act in order to implement a "de facto" control test to enable regulation of the effective controlling forces of corporations.

Comments

5.1.1.1 This Concern arises from the influence exercised over the companies that Baines refers to as "elbow length companies". The voting shares of AMIC and the holding companies were disseminated among people and companies with a community of interest with Abacus. The ownership pattern of the four lenders was specifically designed to permit Abacus to borrow money from them.

5.1.1.2 The Abacus Articles of Association and the Alberta Companies Act, as they existed at that time, permitted the Abacus directors to declare an interest generally, as opposed to specifically, and thereafter to vote on transactions and to benefit therefrom without being accountable to the company. Abacus involvement in AMIC and AMIC profitability was no secret.

5.1.1.3 These events may not have occurred as they did if Abacus had been subject to the Alberta Business Corporations Act of 1980. Section 115(5) of that act appears to prevent Directors from voting on transactions in which they have an interest. Under section 115, Directors are accountable to the company if a contract is seen to be not reasonable and fair to the company even where approved by disinterested Directors.

5.1.1.4 The Canadian Income Tax Act and the Foreign Investment Review Act are examples of legislation where control is considered as a matter of fact.

5.1.2 Recommendation #2 - Unmanageable Conflict of Interest

That there be amendments to the Trust Companies Act and other acts or regulations dealing with "lending companies" to restrict or prohibit the making of

loans or investments that benefit shareholders, officers or directors who are in fact, directly or indirectly, part of the control group of the lending corporation.

Comments

5.1.2.1 This recommendation stems from the unmanageable conflicts of interest arising out of the interrelationships between the friendly lenders and the Abacus Group.

5.1.2.2 This situation seems contrary to the spirit of loan laws and regulations. It is unlikely that it is contrary to a technical interpretation of the detailed rules.

5.1.2.3 The Canadian Income Tax Act and the Foreign Investment Review Act are examples of legislation where the questions of relationships and control are determined as a matter of fact.

5.1.3 Recommendation #3 - Redefine "legal-for-life" companies

Amend provincial legislation, and recommend the amendment of federal legislation in the definition of "legal-for-life" corporations. This may affect the legislation of trust, loan and insurance companies.

Comments

5.1.3.1 Technically, legal-for-life companies are significant to the requirements of loan laws and regulations which state that "an investment must meet certain conditions in order to be acceptable by the loan, trust or insurance company". These conditions include various technical tests of the substance of the borrower. The tests are enforced by both federal and provincial legislation. There are some variations in the borrower substance tests depending on the legislation. The tests are prescribed criteria which frequently require companies to show a record of five successful years of earnings. The earned income must be adequate to pay dividends, for example, of at least 4% on capital stock in each of those years. Companies which comply, called legal-for-life companies, are often relatively small companies with little current substance. They could be devoid of the assets or personnel that created their earnings history. The tests, blindly followed, achieve nothing. A small business could easily pass the test. These businesses would then technically be eligible to issue millions of dollars of securities to any loan, trust or insurance company.

Today's taxation of corporation laws permit companies to change themselves in many ways. It is possible for the small business to dispose of its business and all of its assets without any tax payments and virtually no legal costs. What remains is an empty company that still has an earnings history or record which technically satisfies the borrower substance tests. These empty companies then have value to people who are interested in starting a new business. They are especially attractive to those who wish to take advantage of loan, trust or insurance monies before the new business has succeeded for five years.

5.1.3.2 In 1978, Abacus purchased the shares of 16 legal-for-life companies. It

removed the former businesses thus converting the companies into empty companies which would qualify, under certain conditions, to be the beneficiaries of loans and investments made by the elbow's length lenders.

5.1.3.3 The empty legal-for-life companies were used in a variety of ways. In certain transactions, these companies were interposed as if they were financial intermediaries in loans to Abacus from Paramount and AMIC. They were also used in a variety of other ways.

5.1.4 Recommendation #4 - Corporate loans to Directors or Shareholders

A review of section 42 of the Alberta Business Corporations Act to assess it for its value and effectiveness.

Comments

5.1.4.1 Section 42 of the Alberta Business Corporations Act prohibits direct or indirect loans or financial assistance to shareholders or to any person in connection with the purchase of a share of the company, subject to a second test. That second test provides that such financial assistance is prohibited

> "....if there are reasonable grounds for believing that...the realizable value of a corporation's assets...after giving the financial assistance, would be less than the aggregate of the corporations liabilities and stated capital of all classes."

5.1.4.2 Section 42 of the Alberta Business Corporations Act was not in place in 1978 and is not applicable to the Abacus situation. However, Mr. Baines offers the analysis in contemplation of an attempt to prevent recurrences. In Mr. Baines' opinion, had this law been applicable, it appears that Abacus would not have passed the second test in December, 1978. However, Mr. Baines also indicates that this test would be very difficult to apply.

5.1.4.3 Mr. Baines' comments are part of the $187,000,000.00 securities exchange transaction that was planned but never completed by Abacus. It involved the exchange of newly issued, or to be issued, security documents among 34 effectively controlled companies in a pattern whereby all but three participants received the same face value of new security documents as they issued.

5.1.5 Recommendation #5 - "Control" of a Subsidiary to be Determined Factually

A review of section 30 of the Alberta Business Corporations Act to determine whether it would be more effective if it permitted "control" to be determined as a matter of fact.

Comments

5.1.5.1 Mr. Baines reports as follows:

"Section 30 of the Alberta Business Corporations Act provides that a corporation

shall not permit a subsidiary to purchase shares of the corporation. Subsidiary is defined as a company that is controlled by another company. In my view, Abacus controlled many of the companies which purchased the Abacus shares in this exchange (the $187,000,000 securities exchange). If the definition stops there, those companies would have been classifi[illegible] as subsidiaries and prevented from buying Abacus shares or each others shares. But the definition does not stop there. Control is defined in the Act in terms of enough votes to elect a majority of the directors. In my view, the prohibition would be more effective if it permitted control to be determined as a matter of fact."

5.1.5.2 The securities exchange similar to that in the Abacus situation might be more difficult to carry out today because of current legislative prohibitions, as well as the requirements of the Canadian Institute of Chartered Accountants for disclosure about long term investments and related party transactions. Since 1978, an investor has had to disclose investments and defer profits on intercompany transactions where the investor held effective control over the investee. Since 1979, details of related party transactions are required to be disclosed if one party is able to significantly influence the other party to the transaction.

5.1.6 Recommendation #6 - Ultimate Borrower Disclosure

Amend the legislation regulating lenders to ensure that the ultimate borrower of the funds is identified and regulatory reporting is accurate.

Comments

5.1.6.1 Lending regulations are not worded tightly enough to ensure that the ultimate borrower or recipient of loaned funds is reported to the regulator.

5.1.6.2 In order to pursue the tightening of lending regulations, it would in all likelihood, be necessary to pursue the re-defining of "effective control" under the various corporation and company legislation.

5.1.7 Recommendation #7 - Prevention of Co-Mingling of Client Funds

The Alberta Business Corporations Act, the Trust Companies Act and the Securities Act should be amended to prevent the co-mingling of client funds.

Comments

5.1.7.1 Clients funds received by the developer should be "locked-in" to the particular project for which they are tendered. Statutory prohibition of co-mingling would minimize the investor's risk.

5.1.8 Recommendation #8 - Insider Reporting for Employee Share Purchase Plans

Consider a an amendment to the Securities Act to treat employee share purchase plan holders as insiders for purposes of the Act, and in particular for purposes of reporting.

Comments

5.1.8.1 Under certain circumstances, the trading in securities by an employee share purchase plan can be significant to the market for those shares. Accordingly, the trading in these securities by an employee purchase plan should be reportable as if the plan was an insider as defined in the Securities Act.

5.2 POLICY RECOMMENDATION

5.2.1 Recommendation #9 - Recommendation that the Government Study the Possibility of Consolidating Regulatory Overview of all Financial and Investment Regulation into a single Regulatory Agency

The business and operations of Abacus Cities Ltd. invoked the application of several statutes and the jurisdiction of the regulators of those respective statutes. The extent to which those operations came within the regulatory authority of the Securities Commission was not very large, in the context of all of the company's activities.

In the course of its operations, Abacus Cities Ltd. dealt with matters that came under the jurisdiction of the Companies Act of Alberta, the Trust Companies Act, the Insurance Act and the Securities Act and would have come into contact with the application of several other statutes in lesser ways.

In conducting its extensive investigation of the affairs of Abacus Cities Ltd. the Commission became aware of the limits of its jurisdiction under the Securities Act in relation to the wide-ranging and complex activities and operations conducted by Abacus Cities Ltd. The Commission is compelled to ask the question whether or not the affairs of Abacus Cities Ltd. would have been under better regulatory scrutiny during the life of the Company if all of these respective statutes relating to financial institutions and the investment industry had been administered by a single agency in the province. At present, while the regulators of securities, insurance, real estate, trust companies are in close proximity to each other in a physical sense and are consolidated under the aegis of the Department of Consumer & Corporate Affairs, each maintains a separate identity, staffing and regulatory regime. The regulation of real estate, insurance and trust companies does not include anything similar to a commission in their respective make-ups.

The Commission asks whether or not the consolidation of all of these agencies together in a format of a single unified regulatory agency, with the benefit of a commission board, a combined registry, auditing, and investigative staff, etc., would give such a regulatory agency a better overview on the activities of a multi-faceted business like that of Abacus Cities Ltd.

Such a consolidation might be mandated on the grounds of efficiency as well as regulatory effectiveness.

It is therefore the recommendation of the Commission that the government undertake such a review as it sees fit of this concept.

5.3 RECOMMENDATIONS RESPECTING THE LAYING OF COURT CHARGES FOR BREACH OF THE SECURITIES ACT

5.3.1 Recommendation to Abandon 1979 and 1980 Complaints

Comments

The Enforcement staff of the Alberta Securities Commission swore a complaint against Equivest Securities Ltd. on December 21, 1979 alleging that Equivest Securities Ltd. traded improperly in securities of the Kingsway Joint Venture between December 1 and December 31, 1978 before a prospectus was filed with the Commission, contrary to section 35 of the (old) Securities Act.

On January 4, 1980, the Enforcement staff of the Commission swore a complaint against Kenneth D. Rogers and A. Ronald Davies as directors of Equivest Securities Ltd. for acquiescing, permitting or authorizing the above noted activity by Equivest Securities Ltd.

Equivest Securities Ltd. was a company with a relationship to the principals of Abacus Cities Ltd. and was its "selling arm".

The above noted complaints were not ever served on any of the respondents, and no further action had been taken by the staff of the Commission with respect to these complaints.

The staff explains that the complaints were filed in order to preserve the right of Commission enforcement action in the light of the limitation periods existing at the time. The staff further explains that no further steps were taken in this process because of the existence of the much larger investigation ordered by the Commission through Mr. Baines. Upon legal advice, these complaints were held in abeyance by the staff to await the outcome of the investigators report.

Now, on the advice of a constitutional lawyer, the Commission accepts the opinion that the delay in holding these complaints from December 21, 1979 to the present time is in all likelihood a defence against the complaints being proceeded with at the present time, pursuant to the provisions of the current Canadian constitution. Accordingly, the Commission has decided to take no further steps in pursuit of these complaints.

5.3.2 The Commission is continuing to examine some further specific actions of Abacus Cities Ltd., and will advise the Ministers in the further supplementary report whether or not the Commission will recommend any charges to be laid pursuant to the Securities Act.

5.4 RECOMMENDATIONS RESPECTING INSTITUTION OF ENFORCEMENT PROCEEDINGS

Comments

5.4.1 The Commission staff is continuing a review of some specific transactions and has yet to finalize a recommendation to the Commission. Accordingly, the Commission will make its recommendations in this area to the Ministers in a supplementary report.

5.5 MISCELLANEOUS RECOMMENDATIONS

5.5.1 Recommendation #11 - Lenders Loan Margins

The investigator expressed concern that regulations may allow a regulated lender to take a subordinated position when combined encumbrances on a property equal 100% of the value of the security. No margin is therefore available to absorb decrease in the value of a security, changes in the interest rates, real estate values, etc.

The Commission will direct this concern to the Director of Trust Companies for the Province of Alberta.

5.5.2 Recommendation #12 - Referral of Investigators Report to the Attorney General

5.5.2.1 In several instances, Mr. Baines recommended that certain Abacus activities should be referred to the Attorney General for his review.

The Commission has referred the investigation report as recommended for final determination and disposition by the Attorney General.

5.5.3 Recommendation #13 - Confidentiality of Investigators Report and Task Force Report

5.5.3.1 The Commission advises that the investigation report is a confidential report, and that the task force report, which is a synopsis of the investigators report and provides recommendations based on the investigation report is also confidential, pursuant to section 34 of the Act. The Commission does not consent to the release of the investigation or task report.

6. GENERAL COMMENTS

6.1 The Orr/Ghitter Report and Recommendations Therein

The Commission is advised by its counsel that the implementation of the Alberta Business Corporations Act (section 30 and 42) has met some of the concerns of this report.

The Commission also comments that section 14 of the Companies Act provides for civil remedies, but does not provide for any criminal or Securities Act enforcement. The Commission therefore, has no jurisdiction to take any action in the instant case under section 14.

6.2 Criminal Code Charges in Ontario

The prosecution of Kenneth Rogers for two charges of fraud under the Criminal Code of Canada in relation to the take-over of Imperial General Properties Limited was proceeded with in Ontario. He was acquitted of both charges after a jury trial.

6.3 R.C.M.P. Investigation

The Commission is aware that the Royal Canadian Mounted Police, Commercial Crime Section, has conducted an investigation into the affairs of Abacus Cities Ltd. and

specifically to determine whether or not any offences have occurred under the Criminal Code of Canada. Accordingly, the Commission has not entered into an investigation of Criminal Code offences.

6.4 Review of the Procedure Followed by the Commission in Investigating Abacus Cities Ltd.

The present members of the Commission, with the exception of Mr. D. Craig, have all joined the Commission after the date on which the Abacus Cities Ltd. investigation was undertaken, and therefore, have no personal knowledge as to the considerations that went into the Commission electing to proceed by way of a Commission investigation order in this matter. Commissioner Craig did not participate in any of the review of the Investigators report nor any of the subsequent proceedings relating to the report, nor in any of the preparation of this report, for the reason that he has been temporarily absent from the Commission while fulfilling another commitment unrelated to Commission business.

The members of the Commission feel that it is fair to raise the question as to whether or not the procedure of conducting an investigation pursuant to the provisions of the Securities Act was the most effective and efficient means of handling the collapse of Abacus Cities Ltd. Another form of proceeding could have been a public inquiry pursuant to the Public Inquiries Act of Alberta. The Commission itself does not have the power to call such a public inquiry; at best it could only have recommended to the government that such step be taken.

This question is raised in the context of the fact that the cost of the investigative report in finality was approximately $3.5 million, and that the time involved was slightly in excess of four years.

The Commission is advised that at the outset, the investigator was charged with conducting a very preliminary review of the Abacus Cities Ltd. collapse, bearing in mind the information provided by the Orr/Ghitter report, and to report back to the Commission within a period of approximately three months.

The Commission is advised that such preliminary review was conducted and that it was during the course of such review that the total magnitude and complexity of the matter began to emerge. As late as the 22nd of November, 1979, the investigator was still identifying companies which required investigation. The original order in May of 1979 identified Abacus and 43 other companies engaged in trading. An additional 93 companies were identified as the investigation proceeded and added to the list of companies to be investigated, making a total of approximately 137 companies to be investigated.

The investigation was very broad, including the identification of persons to be examined under oath as witnesses, and then the conduct of those examinations. The examination of Kenneth Rogers alone covered nearly 2,600 pages of transcript. Approximately, 75 witnesses were examined under oath. Several court applications were dealt with during the course of the investigation.

The Commission accepts the fact that an investigation of this magnitude, resulting in a thorough and comprehensive report of the investigator, (and seven volumes), required to have the amount of time that was actually spent on it. The Commission is satisfied that the investigation was proceeded with diligently and conscientiously throughout.

Bearing in mind that the Securities Act sets out limitation periods that commence from the time that the facts upon which proceedings first come to the knowledge of the Commission (section 167, Securities Act, 1981), and being of the opinion that the facts would come to

the knowledge of the Commission (for purposes of triggering the limitation dates) when the investigator made his report to the Commission, and being of the opinion that acceptance of interim reports from the investigator by the Commission might prejudice the Commission's legal position by triggering limitation dates as of the date of receipt of interim reports, the Commission therefore deliberately refrained from requesting interim reports relating to the substantive portion of the investigation, and so advised its investigator. Communications between the Commission and the investigator were limited to reports relating to the status of the report and purely administrative matters.

The Commission was also of the view that until it had received the investigators report, it was not in a position to make any determination pursuant to section 32 of the Act to determine what reports might have to be provided by the Commission to the Minister of Consumer and Corporate Affairs and to the Attorney General. Accordingly, the Commission provided no interim reporting to either Minister except for administrative status reports.

It is impossible to determine whether the public would have been better served by the holding of a public inquiry instead of having proceeded as it did with an investigative report. An inquiry would have had to have proceeded without any specific wrongdoings having been identified. An inquiry is not a trial, and accordingly, an inquiry would have concluded only with findings of fact, but without any convictions being put into place.

A public inquiry would have been a lengthy process when you consider that at least 75 witnesses would have to be examined and cross-examined several times, and that some witnesses would occupy the witness stand for days at a time. Thousands of documents would have to entered as exhibits, and the complexity of the matter would likely have strained the capacity of even sophisticated persons to understand the entire activities of the company, particularly if relying on media coverage of the inquiry. A public inquiry would have foisted considerable expense not only on the province but also on the individual parties and witnesses, many of whom would feel compelled to retain counsel throughout the inquiry. By way of financial comparison, it is noted that the Royal Commission on Corporate Concentration conducted between April 22, 1975 and May 15, 1978 cost in excess of $3,000,000. The Royal Commission on certain activities of the R.C.M.P. conducted between July of 1977 and September of 1981 cost in excess of $8,000,000. The Kent Royal Commission on Newspapers conducted between September of 1980 and August of 1981 cost in excess of $3,750,000.

In finality, the Commission feels that on balance the decision of the Commission in 1979 to proceed with an investigation pursuant to the Securities Act rather than seeking a public inquiry is sustainable.

7. CONCLUSION

7.1 The Commission confirms that it will provide a supplementary report to the Ministers to complete its recommendations under paragraph 5.3 and 5.4 of this report.

7.2 The Minister may cause this report to be published in whole or in part in any manner she considers proper, pursuant to section 36 of the Act.

7.3 This report is unanimously agreed to by all of the Commissioners who undertook the review of this matter and the preparation of this report. Commission Douglas Craig. P. Eng. did not participate in any of the deliberations of activities of the Commission related to the

review of the investigators report and all subsequent matters and the preparation of this report solely by virtue of his temporary involvement and absence from the Commission on another matter. Accordingly, he has not been requested to sign the report.

All of which is respectfully submitted.

ALBERTA SECURITIES COMMISSION

per:

William T. Pidruchney, Q.C., Chairman

Robert G. Donlevy, Member

Edward B. Allan, F.C.A., Member

J. Patrick Cashion, C.A. Member

Norman F. Elsey, Member

Number/
Numéro

Alberta
SECURITIES COMMISSION

10th Floor, 10065 Jasper Avenue, Edmonton, Alberta, Canada T5J 3B1 403/427-5201 Telex 037-2701 Alsecom Edm

July 13, 1984

The Hon. Constantine E. Osterman, Minister
Consumer & Corporate Affairs
Room 402 Legislature Building
EDMONTON, Alberta
T5K 2B6

and

The Hon. Neil Crawford, Q.C.
Attorney General
Room 227 Legislature Building
EDMONTON, Alberta
T5K 2B6

REPORT OF THE ALBERTA SECURITIES COMMISSION
RE: ABACUS CITIES LTD.
PART II

1. Introduction:

Part I of the Commission report to the Minister of Consumer and Corporate Affairs dated May 18, 1984, advised that the Commission would make a further and supplementary report to the Minister respecting two areas as follows:

1.1 Recommendations respecting the laying of court charges for breach of the Securities Act (see paragraph 5.3.2 on page 11 of Part I of the Report).

1.2 Recommendations respecting the Institution of Enforcement Proceedings (see paragraph 5.4.1 on page 11 of Part I of the Report).

The Commission has now finalized its review of the investigators' report and makes the following report to the Minister of Consumer and Corporate Affairs and to the Attorney General of Alberta pursuant to section 32 of the Alberta Securities Act:

2. Recommendations Respecting the Laying of Court Charges for Breach of the Securities Act

2.1 The Commission directed that prosecution for breach of section 136 of the Securities Act, 1970, R.S.A. c.333 (the "old Act") be undertaken against Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt. A fiat of the Acting Deputy Attorney General for the Province of Alberta permitting the undertaking of the prosecution was obtained. In the charge the Commission alleges that the defendants made certain statements appearing in six different prospectuses which were

filed with the Alberta Securities Commission, which statements, at the time and in the light of the circumstances under which they were made were false or misleading with respect to material facts.

A copy of the information is attached to this report as Exhibit #1.

A copy of section 136 is attached as Exhibit #2.

Service of the information on the defendants is presently being undertaken.

2.2 Abacus Cities Ltd. was further charged on July 6, 1984 for violation of section 135 of the old Act for failure to comply with provisions of the Act relative to fair financial presentation of the results of operations of Abacus Cities Ltd. in 1975, 1977 and 1978. A copy of the information is attached as Exhibit #3 to this report.

A copy of section 135 is attached as Exhibit #4.

2.3 Additionally, Kenneth Douglas Rogers and William Howard Rogers are also charged under section 135 of the old Act as being officers and directors who acquiesced in Abacus Cities Ltd. failing to comply with mandatory statutory requirements. The Commission alleges that the company and its officers and directors failed to comply with certain provisions of the old Act relative to fair financial presentation of the results of operations of the company for the years 1975, 1977 and 1978.

A copy of the information is attached as Exhibit #5.

2.4 All parties are scheduled for the first appearance on the charges on August 2, 1984 at 9:30am in courtroom 407 in the Provincial Court of Alberta in Calgary, Alberta.

Under section 136 of the old Act, any company found guilty of the offence is liable to a maximum fine of not more than $25,000. Any individual found guilty under section 136 may be liable to a fine of not more than $2,000 of a term of imprisonment for not more than one year or for both.

Under section 135 of the old Act, the company that failed to comply is liable to a fine of not more than $1,000, while every officer or director who acquiesced in the company's offence is liable to a fine of not more than $1,000.

3. Recommendations Respecting Institution of Enforcement Proceedings

The Commission directed that a hearing pursuant to section 165 and section 166 of the Alberta Securities Act be undertaken against the respondents, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt. These proceedings are under the Securities Act, 1981, Statutes of Alberta, c. S-6.1 (the "new Act"). Under these proceedings the Commission may order the respondents or any of them to cease trade in certain securities and may also deny the parties certain statutory exemptions which are otherwise available to them in that Act.

The grounds upon which the hearing is convened are substantially similar to the allegations in the charges laid under paragraph 2.1 of this report.

These administrative disciplinary hearings are scheduled for first appearance before the Alberta Securities Commission on Wednesday, August 15, 1984, commencing at 10:00 o'clock in the forenoon at the Courthouse, 611 - 4th Street S.W., Calgary, Alberta.

A copy of the Notice of Hearing containing the particulars thereof is attached as Exhibit #6 to this report.

4. Conclusion

4.1 The report of the Alberta Securities Commission in the matter of Abacus Cities Ltd. is hereby concluded. This report may be published in whole or in part by the Minister of Consumer and Corporate Affairs or by the Attorney General.

All of which is respectfully submitted.

ALBERTA SECURITIES COMMISSION

(Per _____
William T. Pidruchney, Q.C., Chairman

(Per _____
Robert G. Donlevy, Member

(Per _____
Edward B. Allan, F.C.A. Member

(Per _____
J. Patrick Cashion, C.A. Member

(Per _____
Norman F. Elsey, Member

A.G. 352 REV. 11.77
CRIMINAL CODE FORM 2
(SECTIONS 455, 455.1 AND 723)

EXHIBIT #1

CONTROL NO. ONLY
2772924

DOCKET NO. ONLY

CANADA
PROVINCE OF ALBERTA

INFORMATION

ON BEHALF OF HER MAJESTY THE QUEEN

THIS IS THE INFORMATION OF

(INSERT FULL NAME, RESIDENCE AND OCCUPATION OF INFORMANT)

Alfred T. M. Woo

OF the City of Edmonton, Alberta, a Civil Servant for

the Province of Alberta HEREINAFTER CALLED THE INFORMANT.

THE INFORMANT SAYS THAT

he has reasonable and probable grounds to believe and does believe that

(IF THE INFORMANT HAS NOT PERSONAL KNOWLEDGE, STATE THAT HE HAS REASONABLE AND PROBABLE GROUNDS TO BELIEVE AND DOES BELIEVE AND STATE THE OFFENCE.)

COUNT #1. Between the 19th of December, A.D. 1978, and the 19th day of March, A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th day of November, A.D. 1978, in respect of securities of Cambrian Meadows, a document required to be filed under the Securities Act, 1970 R.S.A., c.333, for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970 R.S.A., c.333.

COUNT #2. Between the 19th day of December A.D. 1978 and the 19th day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th day of November A.D. 1978 in respect of securities of Woodburn Place, a document required to be filed under the Securities Act, 1970 R.S.A., c.333, for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earning") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970 R.S.A., c.333.

COUNT #3. Between the 19th day of December A.D. 1978 and the 19th day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th day of November A.D. 1978 in respect of securities of Rockwood Village, a document required to be filed under the Securities Act, 1970 R.S.A., c.333, for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970 R.S.A., c.333.

COUNT #4. Between the 19th day of December, A.D. 1978, and the 19th day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th day of November, A.D. 1978, in respect of securities of Pellican Place, a document required to be filed under the Securities Act, 1970 R.S.A., c.333, for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970 R.S.A., c.333.

COUNT #5. Between the 19th day of December, A.D. 1978, and the 19th day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th day of November, A.D. 1978, in respect of securities of Kingfisher Estates, a document required to be filed under the Securities Act, 1970 R.S.A., c.333, for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act. 1970 R.S.A.. c.333.

COUNT #6. Between the 19th day of December A.D. 1978 and the 19th day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th day of November A.D. 1978 in respect of securities of 300 Columbia Joint Venture, a document required to be filed under the Securities Act, 1970 R.S.A., c.333, for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970 R.S.A., c.333.

PART 13

OFFENCES AND PENALTIES

Offences and penalties

136. (1) Every person or company who

(*a*) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or the Registrar or to any person appointed to make an investigation or audit under this Act, that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, or

(*b*) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, or

(*c*) contravenes this Act or the regulations, or

(*d*) fails to observe or comply with any order, direction or other requirement made under this Act or the regulations

is, except where such conduct also constitutes an offence under Parts 9, 10, 11 and 12, guilty of an offence and liable on summary conviction to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

(2) No person or company is guilty of an offence under subsection (1), clause (*a*) or (*b*) if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

(3) Where a company is guilty of an offence under subsection (1), every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and is liable on summary conviction to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

(4) Notwithstanding subsection (1), where a company is convicted thereunder, the maximum fine that may be imposed is $25,000. [R.S.A. 1970, c. 333, s. 136]

EXHIBIT 3

669538

CANADA
PROVINCE OF ALBERTA

INFORMATION

ON BEHALF OF HER MAJESTY THE QUEEN

THIS IS THE INFORMATION OF Alfred T.M. Woo

OF the City of Edmonton, Alberta, a Civil Servant for the Province of Alberta HEREINAFTER CALLED THE INFORMANT

THE INFORMANT SAYS THAT he has reasonable and probable grounds to believe and does believe that

COUNT #1. On or about the 27th day of March, A.D., 1976, at or near the City of Edmonton and the City of Calgary, and elsewhere in the Province of Alberta, Abacus Cities Ltd., did fail to comply with the provisions of Part 12 of the Securities Act, 1970 R.S.A., Chapter 333 in respect of financial statements for the one year period ended December 31st, 1975 in that the said financial statements were not drawn up so as to present fairly the results of operations of Abacus Cities Ltd. relative to the recording of certain fees for the Foothills Professional Project, contrary to section 135 of the Securities Act, 1970 R.S.A., Chapter 333;

COUNT #2. On or about the 6th day of July, A.D., 1978, at or near the City of Edmonton and the City of Calgary, and elsewhere in the Province of Alberta, Abacus Cities Ltd. did fail to comply with the provisions of Part 12 of the Securities Act, 1970 R.S.A., Chapter 333 in respect of financial statements for the one year period ended December 31st, 1977 in that the said financial statements were not drawn up so as to present fairly the results of operations of Abacus Cities Ltd. relative to the recording of certain fees for the Brunette Square contrary to section 135 of the Securities Act, 1970 R.S.A., Chapter 333;

COUNT #3. On or about the 22nd day of May, A.D., 1979, at or near the City of Edmonton and the City of Calgary, and elsewhere in the Province of Alberta, Abacus Cities Ltd. did fail to comply with the provisions of Part 12 of the Securities Act, 1970 R.S.A., Chapter 333 in respect of financial statements for the one year period ended December 31st, 1978 in that the said financial statements were not drawn up so as to present fairly the results of operations of Abacus Cities Ltd. relative to the recording of certain fees for the Kingsway Joint Venture, Port Moody Joint Venture and for People's Place, contrary to section 135 of the Securities Act, 1970 R.S.A., Chapter 333.

SWORN BEFORE ME THIS

_____ DAY OF _____ A.D. 19____

AT _____ ALBERTA

_____
A JUSTICE OF THE PEACE IN AND FOR THE PROVINCE OF ALBERTA

_____
SIGNATURE OF INFORMANT

ADJUDICATION AND DISPOSITION BELOW

ADJUDICATION

DISPOSITION FINED $ _____ AND COSTS OF THE COURT $ _____ AND IN DEFAULT TO BE IMPRISONED IN THE PROVINCIAL CORRECTIONAL INSTITUTION / PENITENTIARY FOR A PERIOD OF _____

_____
JUSTICE OF THE PEACE OR PROVINCIAL JUDGE

ENDORSEMENTS ON REVERSE

Offence and penalty

135. A corporation that fails to comply with any provision of this Part is guilty of an offence and is liable on summary conviction to a fine of not more than $1,000 and every director or officer of the corporation who authorized, permitted or acquiesced in any such failure is guilty of an offence and is liable on summary conviction to a fine of not more than $1,000. [R.S.A. 1970, c. 333, s. 135]

EXHIBIT 5

669541

CANADA
PROVINCE OF ALBERTA

INFORMATION

ON BEHALF OF HER MAJESTY THE QUEEN

THIS IS THE INFORMATION OF Alfred T.M. Woo

OF the City of Edmonton, Alberta, a Civil Servant for the Province of Alberta HEREINAFTER CALLED THE INFORMANT

THE INFORMANT SAYS THAT he has reasonable and probable grounds to believe and does believe that

COUNT #1. On or about the 27th day of March, A.D., 1976, at or near the City of Edmonton and the City of Calgary and elsewhere in the Province of Alberta, Kenneth Douglas Rogers and William Howard Rogers, each being a director or an officer of Abacus Cities Ltd., a corporation within the meaning of the Securities Act 1970 R.S.A., Chapter 333, did jointly and severally acquiesce in the said corporation failing to comply with the provisions of Part 12 of the Securities Act, 1970 R.S.A., Chapter 333 in respect of financial statements for the one year period ended December 31st, 1975 in that the said financial statements of the said corporation were not drawn up so as to present fairly the results of operations of the said corporation relative to the recording of certain fees for the Foothills Professional Project, contrary to section 135 of the Securities Act, 1970 R.S.A. Chapter 333;

COUNT #2. On or about the 6th day of July, A.D., 1978, at or near the City of Edmonton and the City of Calgary and elsewhere in the Province of Alberta, Kenneth Douglas Rogers and William Howard Rogers, each being a director or an officer of Abacus Cities Ltd., a corporation within the meaning of the Securities Act, 1970 R.S.A., Chapter 333 did jointly and severally acquiesce in the said corporation failing to comply with the provisions of Part 12 of the Securities Act 1970 R.S.A. Chapter 333 in respect of financial statements for the one year period ended December 31st, 1977 in that the said financial statements of the said corporation were not drawn up so as to present fairly the results of operations of the said corporation relative to the recording of certain fees for Brunette Square, contrary to section 135 of the Securities Act, 1970 R.S.A., Chapter 333.

COUNT #3. on or about the 22nd day of May, A.D., 1979, at or near the City of Edmonton and the City of Calgary and elsewhere in the Province of Alberta, Kenneth Douglas Rogers and William Howard Rogers, each being a director or an officer of Abacus Cities Ltd., a corporation within the meaning of the Securities Act 1970 R.S.A. Chapter 333, did jointly and severally acquiesce in the said corporation failing to comply with the provisions of Part 12 of the Securities Act 1970 R.S.A Chapter 333 in respect of financial statements for the one year period ended December 31st, 1978 in that the said financial statements of the said corporation were not drawn up so as to present fairly the results of operations of the said corporation relative to the recording of certain fees for the Kingsway Joint Venture, Port Moody Joint Venture and for People's Place, contrary to section 135 of the Securities Act, 1970 R.S.A. Chapter 333.

ENDORSEMENTS ON REVERSE

Exhibit 6

ALBERTA SECURITIES COMMISSION

IN THE MATTER OF the Securities Act, Statutes of Alberta, c. S-6.1, as amended (hereinafter referred to as the "Act")

- and -

IN THE MATTER OF Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt.

NOTICE OF HEARING
(Issued Pursuant to Sections 165 and 166 of the Act)

TAKE NOTICE that the Alberta Securities Commission (the "Commission") will convene a hearing, or hearings, on Wednesday, the 15th day of August, A.D. 1984, at the hour of 10 o'clock in the forenoon, or so soon thereafter as the hearing may be commenced, at The Court House, 611 - 4th Sreet, S.W., Calgary, Alberta, to determine whether the Commission may order as against the Respondents, or each of them,

(a) under section 165 that trading cease in respect of any securities or that a person or company cease trading in securities or specified securities for a period of time as specified in the order

and to order, or alternatively may order, as against the Respondents, or each of them,

(b) under section 166 that any or all of the exemptions contained in sections 65, 66, 107, 115, 116, 132 and 133, or in the Regulations do not apply to the person or company named in the order.

WHEREFORE the joint hearings are convened by reason of the following facts and allegations:

1. Between the 19th Day of December A.D. 1978 and the 19th Day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th Day of November A.D. 1978 in respect of securities of Cambrian Meadows, a document required to be filed under the Securities Act, 1970, R.S.A. c. 333 for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

   (a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

   (b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

   Contrary to Section 136 of the Securities Act, 1970, R.S.A. c. 333.

2. Between the 19th Day of December A.D. 1978 and the 19th Day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th Day of November A.D. 1978 in respect of securities of Woodburn Place a document required to be filed under the Securities Act, 1970, R.S.A. c. 333 for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

   (a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under

"Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970, R.S.A. c. 333.

3. Between the 19th Day of December A.D. 1978 and the 19th Day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th Day of November A.D. 1978 in respect of securities of Rockwood Village a document required to be filed under the Securities Act, 1970, R.S.A. c. 333 for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970, R.S.A. c. 333.

4. Between the 19th Day of December A.D. 1978 and the 19th Day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th Day of November A.D. 1978 in respect of securities of Pellican Place a document required to be filed under the Securities Act, 1970, R.S.A. c. 333 for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970, R.S.A. c. 333.

5. Between the 19th Day of December A.D. 1978 and the 19th Day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th Day of November A.D. 1978 in respect of securities of Kingfisher Estates a document required to be filed under the Securities Act, 1970, R.S.A. c. 333 for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false

or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 14 of the said prospectus ("Prior Residential Rental Projects"), under "Cost of Development, Actual Total and Per Unit", for each of eight projects, being Brentwood Heights in Calgary, Brookpark Village in Calgary, Lancaster Terrace in Edmonton, Palace Oaks in Calgary, Coach Hill in Calgary, Mill Park in Edmonton, Highwood Park in Williams Lake (British Columbia) and Green Timbers in Vernon (British Columbia);

(b) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970, R.S.A. c. 333.

6. Between the 19th Day of December A.D. 1978 and the 19th Day of March A.D. 1979, at or near the City of Calgary and the City of Edmonton, and elsewhere, in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers, William Howard Rogers, John Meinte Sherman and Halet Francis Hallatt did jointly and severally make statements in a prospectus dated the 24th Day of November A.D. 1978 in respect of securities of 300 Columbia Joint Venture a document required to be filed under the Securities Act, 1970, R.S.A. c. 333 for which prospectus a Receipt was issued by the Alberta Securities Commission dated December 19, 1978, which statements at the time and in the light of the circumstances under which they were made, were false or misleading with respect to material facts, the particulars of the said statements appearing in the said prospectus include:

(a) at page 22 of the said prospectus ("Comparative Statement of Earnings") under item "Revenue" as to "Net Development Management Fees" and as to "Net Income from Sale of Undeveloped Land" appearing in the first column "(Unaudited) Six Months ended June 30, 1978".

Contrary to Section 136 of the Securities Act, 1970 R.S.A., c. 333.

7. On the basis of the foregoing facts set out in Items 1 - 6 above, there has been a failure to make full, true and plain disclosure of all material facts contrary to section 41 of the Securities Act, 1970, R.S.A. c. 333.

8. On or about March 27, 1976 at or near the City of Calgary and the City of Edmonton and elsewhere in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers and William Howard Rogers did jointly and severally make representations in the Annual Financial Statements of Abacus Cities Ltd. for the one year period ended December 31, 1975, which Annual Financial Statements were required to be filed under the Securities Act, 1970, R.S.A. c.333, and which representations did not represent fairly the results of operations of Abacus Cities Ltd. contrary to sections 120, 121, 122, 123 and 124 of the Securities Act, 1970, R.S.A. c.333, the particulars of the said representations appearing in the Annual Financial Statements include:

(a) the recording of fees with respect to the Foothills Professional Project which fees should have been deferred.

9. On or about July 6, 1978 at or near the City of Calgary and the City of Edmonton and elsewhere in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers and William Howard Rogers did jointly and severally make representations in the Annual Financial Statements of Abacus Cities Ltd. for the one year period ended December 31, 1977, which Annual Financial Statements were required to be filed under the Securities Act, 1970, R.S.A. c.333, and which representations did not represent fairly the results of operations of Abacus Cities Ltd. contrary to sections 120, 121, 122, 123 and 124 of the Securities Act, 1970, R.S.A. c.333, the particulars of the said representations appearing in the Annual Financial Statements include:

(a) the recording of fees with respect to the Brunette Square Project which fees should have been deferred.

10. On or about May 22, 1979 at or near the City of Calgary and the City of Edmonton and elsewhere in the Province of Alberta, Abacus Cities Ltd., Kenneth Douglas Rogers and William Howard Rogers did jointly and severally make representations in the Annual Financial Statements of Abacus Cities Ltd. for the one year period ended December 31, 1978, which Annual Financial Statements were required to be filed under the Securities Act, 1970, R.S.A. c.333, and which representations did not represent fairly the results of operations of Abacus Cities Ltd. contrary to sections 120, 121, 122, 123 and 124 of the Securities Act, 1970, R.S.A. c.333, the particulars

of the said representations appearing in the Annual Financial Statements include:

(a) the recording of fees with respect to the Kingsway Joint Venture, Port Moody Joint Venture and Peoples Place Joint Venture Projects which fees should have been deferred.

11. Upon such facts and allegations as may be adduced in evidence at the hearing or hearings of the matter.

AND FURTHER TAKE NOTICE that at the commencement of the hearing on the 15th day of August, A.D. 1984, the Commission may afford opportunity to speak to procedure and to consider any representations, and in addition to hearing and receiving any evidence, may adjourn the hearing to such time or times and to such place or places as in the opinion of the Commission is required to conclude the said hearing or hearings.

AND FURTHER TAKE NOTICE that the Commission intends to follow the rules and procedures outlined in Section 19 of the said Act, which rules provide, in part, that a person or company appearing at a hearing may be represented by legal counsel.

AND FURTHER TAKE NOTICE that the Respondents may obtain further particulars of the facts and allegations in this Notice of hearing by contacting the Alberta Securities Commission at 10th Floor, Capitol Square, 10065 Jasper Avenue, Edmonton, Alberta, attention: Deputy Director, Enforcement.

DATED at the City of EDMONTON)
in the Province of ALBERTA, this)
6th Day of July , 1984)

ALBERTA SECURITIES COMMISSION

per: Alfred T. Woo
Deputy Director, Enforcement

TO: Abacus Cities Ltd.
1100, 615 McLeod Trail S.E.
CALGARY, Alberta
T26 4T8

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WEST VANCOUVER, B.C.

Halet Francis Hallatt
VICTORIA, B.C.

John Meinte Sherman
VANCOUVER, B.C.

POOR

QUALITY

ORIGINAL